

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

THOMAS LEE EDRINGTON,	:	
Plaintiff	:	CIVIL ACTION NO. 3:16-2339
v.	:	JUDGE MANNION
LARRY MAHALLY, <u>et al.</u>,	:	
Defendants	:	

ORDER

Pending before the court is the report of Magistrate Judge William I. Arbuckle, which recommends, in part, that the defendants' motion for summary judgment (Doc. 29) be granted as unopposed pursuant to L.R. 7.6. (Doc. 41). The plaintiff has not filed any objections to Judge Arbuckle's report. Upon review, Judge Arbuckle's report will be adopted to this extent.

As outlined in Judge Arbuckle's report, the plaintiff filed the instant action, *pro se*, on November 21, 2016. (Doc. 1). An amended complaint was filed on March 1, 2017. (Doc. 10). On December 7, 2017, the defendants filed an answer to the plaintiff's complaint. (Doc. 22).

On October 11, 2018, the defendants filed a motion for summary judgment (Doc. 29), along with a supporting brief (Doc. 30), and statement of material facts (Doc. 31). By order dated that same day, the plaintiff was advised of his obligation to respond to the defendants' motion within twenty-one (21) days and the consequences of his failure to do so. (Doc. 32). On the

twentieth day, the plaintiff filed a motion for extension of time to respond to the defendants' motion. (Doc. 33). The plaintiff's motion was granted and he was directed to file his response on or before November 30, 2018. (Doc. 34). This date came and went with no response by the plaintiff. On March 14, 2019, Judge Arbuckle, *sua sponte*, granted the plaintiff another extension of time, until April 4, 2019, to file a response to the defendants' motion for summary judgment. (Doc. 38). That order was returned to the court on April 8, 2019. (Doc. 39). That same day, Judge Arbuckle issued another order granting the plaintiff until May 8, 2019 to respond to the defendants' motion. When the plaintiff again failed to respond, Judge Arbuckle issued the instant report on July 12, 2019, in which he recommends that the defendants' motion for summary judgment be granted as unopposed pursuant to L.R. 7.6¹ or, in the alternative, the plaintiff's amended complaint be dismissed for failure to prosecute pursuant to Fed.R.Civ.P. 41². (Doc. 41). The plaintiff was advised of his right to object to Judge Arbuckle's report; however, as of this date, he

¹Although the plaintiff failed to oppose the defendants' motion for summary judgment, Judge Arbuckle has included a merits analysis of the plaintiff's claims.

²Because the court agrees that the defendants' motion for summary judgment should be granted as unopposed, the alternative recommendation need not be addressed. However, it is noted that the recommendation is well-taken.

has failed to do so.

When no objections are filed to a report and recommendation, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

The undersigned has carefully reviewed the record in this action and finds no clear error of record. Moreover, the court agrees with the sound reasoning which led Judge Arbuckle to conclude that the defendants’ motion for summary judgment should be granted as unopposed. As such, Judge Arbuckle’s report will be adopted to this extent.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The report of Judge Arbuckle is **ADOPTED** to the extent that the report recommends that the defendants’ motion for summary judgment be granted as unopposed.

- (2) The defendants' motion for summary judgment (**Doc. 29**),
is **GRANTED AS UNOPPOSED**.
- (3) The Clerk of Court is directed to **CLOSE THIS CASE**.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: August 14, 2019

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